

The Hon. James N. Whitehead

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

UNITED STATES OF AMERICA,

Plaintiff,

v.

MISAEAL TRUJILLO-BALTAZAR,

Defendant.

NO. CR23-135-JNW

[~~PROPOSED~~]

**PRELIMINARY ORDER OF
FORFEITURE**

THIS MATTER comes before the Court on the United States’ Motion for Entry of a Preliminary Order of Forfeiture (the “Motion”) seeking to forfeit, to the United States, Defendant Misael Trujillo-Baltazar’s interest in the following property (the “Subject Property”):

1. One Hi-Point Arms Model 995 9mm rifle, with serial number B05335, and any associated ammunition; and
2. One New Frontier Armory LW-15 rifle, with serial number NLV36039 and any associated ammunition.

The Court, having reviewed the United States’ Motion, as well as the other papers and pleadings filed in this matter, hereby FINDS that a Preliminary Order of Forfeiture is appropriate because:

- 1 • The Subject Property is forfeitable pursuant to 21 U.S.C. § 853(a) as it was
2 proceeds of, or facilitated Defendant's commission of, *Possession of*
3 *Controlled Substances with Intent to Distribute*, the lesser-included offense
4 to that charged in Count 1.
- 5 • The Subject Property is forfeitable pursuant to 18 U.S.C. § 924(d)(1), by
6 way of 28 U.S.C. § 2461(c), as it was involved in Defendant's commission
7 of *Possession of a Firearm in Furtherance of Drug Trafficking Crime*
8 (Count 2).
- 9 • In the Plea Agreement he entered on May 14, 2024, Defendant agreed to
10 forfeit his interest in the Subject Property pursuant to 21 U.S.C. § 853(a),
11 and pursuant to 18 U.S.C. § 924(d)(1), by way of 28 U.S.C. § 2461(c). Dkt.
12 No. 27, ¶ 12.

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14 NOW, THEREFORE, THE COURT ORDERS:

- 15 1) Pursuant to 21 U.S.C. § 853(a), and 18 U.S.C. § 924(d)(1) by way of
16 28 U.S.C. § 2461(c), and pursuant to his Plea Agreement, Defendant Misael Trujillo-
17 Baltazar's interest in the Subject Property is fully and finally forfeited, in its entirety, to
18 the United States;
- 19 2) Pursuant to Fed. R. Crim. P. 32.2(b)(4)(A)-(B), this Preliminary Order will
20 be final as to Defendant at the time he is sentenced, it will be made part of the sentence,
21 and it will be included in the judgment;
- 22 3) The United States Department of Justice, the Drug Enforcement
23 Administration, and/or their authorized agents or representatives, shall maintain the
24 Subject Property in their custody and control until further order of this Court;
- 25 4) Pursuant to Fed. R. Crim. P. 32.2(b)(6) and 21 U.S.C. § 853(n), the
26 United States shall publish notice of this Preliminary Order and its intent to dispose of the
27 Subject Property as permitted by governing law. The notice shall be posted on an official

1 government website – currently www.forfeiture.gov – for at least thirty (30) days. For
 2 any person known to have alleged an interest in the property, the United States shall, to
 3 the extent possible, provide direct written notice to that person. The notice shall state that
 4 any person, other than the Defendant, who has or claims a legal interest in the property
 5 must file a petition with the Court within sixty (60) days of the first day of publication of
 6 the notice (which is thirty (30) days from the last day of publication), or within thirty (30)
 7 days of receipt of direct written notice, whichever is earlier. The notice shall advise all
 8 interested persons that the petition:

- 9 a. shall be for a hearing to adjudicate the validity of the petitioner's
 10 alleged interest in the Subject Property;
- 11 b. shall be signed by the petitioner under penalty of perjury; and,
- 12 c. shall set forth the nature and extent of the petitioner's right, title, or
 13 interest in the Subject Property, as well as any facts supporting the
 14 petitioner's claim and the specific relief sought.

15 5) If no third-party petition is filed within the allowable time period, the
 16 United States shall have clear title to the Subject Property, and this Preliminary Order
 17 shall become the Final Order of Forfeiture as provided by Fed. R. Crim. P. 32.2(c)(2);

18 6) If a third-party petition is filed, upon a showing that discovery is necessary
 19 to resolve factual issues it presents, discovery may be conducted in accordance with the
 20 Federal Rules of Civil Procedure before any hearing on the petition is held. Following
 21 adjudication of any third-party petitions, the Court will enter a Final Order of Forfeiture,
 22 pursuant to Fed. R. Crim. P. 32.2(c)(2) and 21 U.S.C. § 853(n), reflecting that
 23 adjudication; and,

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DATED this 12th day of September 2024.

THE HON. JAMAL JAMES N. WHITEHEAD
UNITED STATES DISTRICT JUDGE

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